

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimant/Counter-Respondent
Todd Frederic Storaska

Case Number: 15-02271

vs.

Respondents/Counter-Claimants
LPL Financial, LLC and Mark Kipling Durham,
Individually and d/b/a Texas Investment &
Retirement Associates

Hearing Site: Dallas, Texas

Nature of the Dispute: Associated Person vs. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant Todd Frederic Storaska ("Claimant" or "Storaska"): Robert M. Thornton, Esq., Kilgore & Kilgore, PLLC, Dallas, Texas.

For Respondents LPL Financial, LLC ("LPL") and Mark Kipling Durham, Individually and d/b/a Texas Investment & Retirement Associates ("Durham"), hereinafter collectively referred to as "Respondents": Thomas F. Barnett, Esq., LPL Financial, LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: August 27, 2015.
Second Amended Statement of Claim filed on or about: September 16, 2015.
Claimant signed the Submission Agreement: September 22, 2015.

Statement of Answer and Counterclaim filed jointly by Respondents on or about:
November 12, 2015.
LPL signed the Submission Agreement: November 12, 2015.
Durham signed the Submission Agreement: November 11, 2015.

CASE SUMMARY

Claimant asserted the following causes of action: defamation and libel or slander on Form U5. The causes of action related to Claimant's allegation that Durham entered false and defamatory statements on Claimant's Form U5 after Storaska's termination from LPL. Claimant alleged he was not able to defend himself relating to the false allegations and that the statements made are damaging to his career in the industry. Claimant requested that this information be expunged from his registration records maintained by the Central Registration Depository ("CRD")

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Second Amended Statement of Claim and asserted various affirmative defenses.

In Respondents' Counterclaim, they alleged that Claimant owed monies relating to the Errors and Omissions insurance coverage during the time Claimant was employed at LPL.

RELIEF REQUESTED

In the Second Amended Statement of Claim, Claimant requested:

Compensatory Damages	\$ 2,000,000.00
Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified
Expungement	

In Respondents' Answer, they requested that the Second Amended Statement of Claim be dismissed in its entirety, including all requests for relief. Respondents further requested that the Panel award their attorneys' fees, costs, and such other relief as the Panel deemed appropriate.

In Respondents' Counterclaim, they requested:

Compensatory Damages	\$ 2,988.97
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

At the close of hearing, the parties requested to file post-hearing briefs. The Panel granted the parties' request and gave the parties until June 10, 2016, to file post-hearing briefs. Claimant filed a post-hearing brief on or about June 10, 2016. Respondents filed a post-hearing brief on or about June 10, 2016. On or about July 21, 2016, the Panel ordered the parties to provide statutory authority in regard to the requests for attorneys' fees by August 5, 2016. On or about August 5, 2016, Claimant and Respondents filed post-hearing briefs on statutory authority for attorneys' fees.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. LPL Financial, LLC is liable for and shall pay to Todd Frederic Storaska, compensatory damages in the amount of \$5,000.00;
2. Todd Frederic Storaska is liable for and shall pay to LPL Financial, LLC compensatory damages in the amount of \$2,988.97;
3. The above amounts are offset. LPL Financial, LLC is liable for and shall pay to Todd Frederic Storaska \$2,011.03 in compensatory damages;
4. LPL Financial, LLC is liable for and shall pay to Todd Frederic Storaska, attorneys' fees in the amount of \$42,500.00 pursuant to the Texas Civil Practice & Remedies Code, Sec. 41.003 and 73.056;
5. The Panel recommends the amendment of the Reason for Termination filed by LPL Financial, LLC on October 15, 2014, with an Occurrence Number 37598494 listed on Todd Frederic Storaska's (CRD# 2784484) Form U-5 maintained by the CRD. The Panel recommends the Reason for Termination be changed from "Other" to "Voluntary" and no Termination Comment to follow based on the defamatory nature of the information. The Form U5 is not automatically amended to include the changes indicated above. Respondent Todd Frederic Storaska must forward a copy of this Award to FINRA's Registration and Disclosure Department for the amendments to be incorporated into the Form U5; and
6. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 2,000.00
Counterclaim Filing Fee	= \$ 525.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, LPL Financial, LLC is assessed the following:

Member Surcharge	= \$ 3,025.00
Member Process Fee	= \$ 6,175.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators that last four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,400.00/session = \$ 1,400.00
Pre-hearing conference: January 27, 2016 1 session

Nine (9) Hearing sessions @ \$1,400.00/session = \$ 12,600.00

Hearing Dates: May 31, 2016 2 sessions
June 1, 2016 2 sessions
June 2, 2016 3 sessions
June 3, 2016 2 sessions

Total Hearing Session Fees = \$ 14,000.00

The Panel has assessed \$7,000.00 of the hearing session fees to Todd Frederic Storaska.

The Panel has assessed \$7,000.00 of the hearing session fees to LPL Financial, LLC.

ARBITRATION PANEL

James W. Kerr, Jr.	-	Public Arbitrator, Presiding Chairperson
Daniel A. Kile	-	Public Arbitrator
Wanda Martinez	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

/s/ James W. Kerr, Jr.
James W. Kerr, Jr.
Public Arbitrator, Presiding Chairperson

8/12/16
Signature Date

/s/ Daniel A. Kile
Daniel A. Kile
Public Arbitrator

8/12/16
Signature Date

/s/ Wanda Martinez
Wanda Martinez
Non-Public Arbitrator

8/12/16
Signature Date

8/16/16
Date of Service (For FINRA Dispute Resolution office use only)

AUG 15 2016

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Signature Date

Daniel A. Kile
Public Arbitrator

Signature Date



Wanda Martinez
Non-Public Arbitrator

08/12/2014
Signature Date

Date of Service (For FINRA Dispute Resolution office use only)